

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRYAN E. RANSOM,

Plaintiff,

v.

M. JOHNSON, et al.,

Defendants.

CASE NO. 1:05-cv-00086-OWW-GSA PC

ORDER DENYING MOTION FOR
PUBLICATION

(Doc. 74)

Plaintiff Bryan E. Ransom ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 12, 2007, Plaintiff filed a motion requesting that the findings and recommendations, issued following the screening of Plaintiff's amended complaint and filed on March 5, 2007, be published.

First, the findings and recommendations and order adopting do not stand for the proposition that as a matter of law, prisoners have a liberty interest in remaining free from the Security Housing Unit, as asserted by Plaintiff in support of his motion. Claims may be screened out only if the Court can find they fail as a matter of law, which it could not do based on Plaintiff's factual allegations. Fed. R. Civ. P. 8(a); Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007); Alvarez v. Hill, 2008 WL 659570, No. 06-35068, *3 (9th Cir. Mar. 13, 2008). An *assumption* of the existence of a liberty interest for screening purposes is not the same as a finding of the existence of a liberty interest as a matter of law.

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1 Second, and in any event, decisions on publication rest with the publisher, not with the Court.

2 Plaintiff's motion is HEREBY DENIED.

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4 IT IS SO ORDERED.

5 **Dated: April 14, 2008**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE